

TENTATIVE RULINGS for CIVIL LAW and MOTION
December 18, 2009

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department 15: (530) 406-6942

TENTATIVE RULING

Case: Page v. Regents of the University of California
Case No. CV PM 08-228

Hearing Date: **December 18, 2009** **Department Fifteen** **9:00 a.m.**

The parties' numerous *ex parte* communications with the Court resulted in much confusion among the parties and the Court. Court personnel expended a great deal of time trying to sort out the hearing dates for the pending motions, some of which have been continued a number of times. To avoid further confusion, the Court **DIRECTS** counsel to meet and confer and determine what motions are still pending before the Court and the hearing dates for such motions. Plaintiffs' counsel is **DIRECTED** to submit a letter to the Court, copying all counsel, with a list of all pending motions and the corresponding hearing dates. The list of pending motions shall state which party/parties filed each motion, the date each motion was filed, and the date each matter is set for hearing.

The motion for sanctions filed by the plaintiffs on August 26, 2009, against defendant Regents of the University of California, will not be heard on December 18, 2009, at 9:00 a.m.

Defendant Regents of the University of California's ("Regents") motion to compel Robert Page to attend the independent medical examination ("IME") scheduled for January 11, 2010, as described in the notice dated November 13, 2009, is **GRANTED** with the following modifications. (Code Civ. Proc., §§ 2032.220, subd. (a) and 2032.250, subd. (a).)

Defendant's IME of Robert Page shall proceed on January 11, 2010, in the State of Washington.

The Regents shall arrange for the IME to take place at a medical facility or a hotel suite that is within 50 miles of Robert Page's residence. Defense counsel shall inform all counsel in writing by no later than January 4, 2010, of the location for the IME.

By no later than January 4, 2010, Carl Calnero shall fax to Duncan Lemmon the "paperwork" that Robert Page is required to complete as part of the IME. By no later than January 6, 2010,

Mr. Lemmon shall serve Mr. Calnero, by facsimile, with the plaintiffs' objections to such paperwork. Plaintiffs' objections must specify each query that is objectionable and the ground(s) for each objection. Plaintiffs' objection(s) shall not prevent the January 11, 2010, IME from going forward, unless a motion for protective order relating to the questions in the "paperwork" is filed by no later than January 6, 2010.

Plaintiffs' counsel is reminded that Dr. Doherty is entitled to ask Mr. Page questions necessary to enable Dr. Doherty to formulate an intelligent opinion regarding the nature and extent of Mr. Page's alleged injuries and, even though the paperwork will be provided in advance of Dr. Doherty's examination, counsel may not participate in or disrupt the examination. (*Sharff v. Superior Court of City and County of San Francisco* (1955) 44 Cal.2d 508, 510-511; Code Civ. Proc., § 2032.510, subd. (b).) The Court is inclined to impose monetary sanctions for any objection made without substantial justification and for failure to meet and confer in good faith.

All other requests for modification to the notice of IME and/or protocol by the plaintiffs are **DENIED**.

Defendant's request for monetary sanctions in the amount of \$1,328.00 against Duncan Lemmon is **GRANTED**. (Code Civ. Proc., § 2032.250, subd. (b).) Plaintiffs' request for reimbursement and monetary sanctions are **DENIED**.

If no hearing is requested, the tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.